

### Remarks

Applicant acknowledges with appreciation the Examiner's allowance of claims 31-35.

The Examiner rejected claims 1-5, 9-11, 14, 24, 25, and 27 under 35 U.S.C. 102(b) as being anticipated by Pfeffer (4,878,482). In support of the rejection, the Examiner reads the "flange" claim limitation on the foam block 35 in Pfeffer's Figs. 6-8, and reads the "fiberglass batt" limitation on the wall support element 17 in Pfeffer's Figs. 1, 2, and 4. Because claims 1, 9, and 24 are allowable (as will be discussed below), it is not necessary to discuss the independent reasons for allowability of claims 2-8, 10-14, and 25-30. This rejection cannot stand with respect to independent claims 1, 9, and 24 for at least three reasons.

First, Pfeffer's wall support element 17 is the subject of an entirely different construction and embodiment of the invention than the foam block 35. Applicant directs the Examiner's attention to column 6, lines 60-62, "A simple and more effective sealing assembly is illustrated in the further embodiment of the invention of Figs. 6 through 8 inclusive." The wall support element 17 of Figs. 1, 2, and 4 does not have any flange depending therefrom, and there is no suggestion in Pfeffer's specification to provide such a flange.

Second, Pfeffer's foam block 35 does not depend from the fiberglass belt 39 (the bottom 46 of which the Examiner has construed as the recited second wiper), as required by independent claims 1, 9, and 24. Rather, Pfeffer's foam block 35 is separately secured to the outer wall of the water tank 2 with an adhesive 36 and is not interconnected or depending from the belt 39. *Pfeffer* column 6, lines 63-64. In fact, Pfeffer suggests a space between the belt 39 and the block 35 that would make such interconnection impossible: "The fiberglass belt 39 is secured to the tank in slightly upwardly spaced relation to the styrofoam block 35, as at 42." *Pfeffer* column 7, lines 5-7. The Examiner therefore cannot read onto the Pfeffer disclosure the claim limitations "the

sealing member also including a flange depending from the at least one wiper member” of claim 1, “a flange depending from the at least one arm” of claim 9, and “providing a sealing member having at least one arm and depending flange” of claim 24.

Third, there is no discussion in Pfeffer’s specification as to how the foam block 35 would be able to hold against the tank a fiberglass batt beneath the foam block 35, as required by the following limitations of claims 1, 9, and 24, respectively: “a fiberglass batt surrounding the tank beneath the sealing member and held against the tank by the depending flange of the sealing member;” “a flange depending from the at least one arm and operable to hold the top of the insulating batt against the tank and beneath the sealing member;” and “retaining the top of the batt against the water tank with the flange.” Pfeffer’s specification discloses no fiberglass batt. Further, the foam block 35 is adhered flush against the tank wall and there is no apparent means for the foam block 35 to hold any element against the tank.

In light of the foregoing, Pfeffer ‘482 does not anticipate independent claims 1, 9, and 24. Claims 2-8, 10-14, and 25-30, which depend from those claims are also allowable. Applicant therefore respectfully requests withdrawal of the rejection and allowance of claims 1-14 and 24-30.

The Examiner rejected claims 7, 8, 12, 13, 15-23, 28, and 29 under 35 U.S.C. 103(a) as being unpatentable over Pfeffer (4,878,482). The rejection is moot with respect to claims 7, 8, 12, 13, 28, and 29 because they depend from one of claims 1, 9, and 24, which in view of the above arguments are allowable. This leaves independent claims 15 and 20 and dependent claims 14-19 and 21-23 as being rejected by the Examiner under 35 U.S.C. 103(a). Because claims 15 and 20 are allowable (as will be discussed below), it is not necessary to discuss the independent reasons for allowability of claims 14-19 and 21-23.

The Examiner concedes that “Pfeffer does not specifically teach a sealing member having a first, second, and third wiper member,” but:

It would have been an obvious matter of design choice to modify the teachings (substitute) of Pfeffer to provide a third wiper member, since the applicant has not disclosed that having a third wiper member extending from the web portion solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill. It appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the first and second wiper members of Pfeffer will perform the invention as claimed by the applicant with any number of wipers.

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First, Applicant notes that the Examiner has not addressed the following limitations in claims 15 and 20:

Claim 15: “the second wiper member extending away from the tank further than the first wiper member and the third wiper member extending away from the tank further than the second wiper member, at least the third wiper member engaging an inner surface of the jacket;” and

Clam 20: “wherein the second arm extends further away from the web than the first arm, and the third arm extends further away from the web than the second arm.”

Applicant respectfully requests that the Examiner particularly point out where in the cited reference these claim limitations are taught or suggested. Applicant respectfully submits that this concept is not taught or suggested in Pfeffer '482, because the flared top and bottom 46, 45 of the fiberglass belt 39 appear to be equal in length in Fig. 7.

Second, Applicant respectfully submits that the Examiner is using hindsight in view of Applicant's own disclosure to arrive at the opinion of obviousness of the claimed invention. The Examiner must provide motivation or teaching from a source other than the Applicant's own disclosure to support an obviousness rejection. To make a sweeping statement like “it would have been an obvious matter of design choice” to modify the prior art in accordance with the

claimed invention disregards the fact that all prior art known to Applicant and the Examiner does not motivate one of ordinary skill to make any modifications.

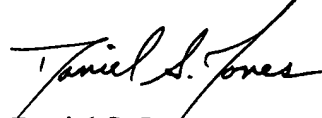
Third, to the Examiner's statement that Applicant has not disclosed that having a third wiper solves any stated problems, Applicant directs the Examiner's attention to paragraph 23 of the specification where Applicant discloses that a configuration with three progressively longer arms is useful in progressively rounding out a none circular jacket as the jacket is lowered over the tank. Thus, the jacket is not met with the large resistance it would encounter if it were lowered directly on a single, relatively long arm (or, for that matter, two arms of equal length as in Pfeffer). Further, in paragraph 24 Applicant notes that the three progressively longer arms permit the insulation to leak past the first and second arms, but not past the third arm. This permits the spaces between the arms to be filled with insulation to improve energy efficiency.

In light of the foregoing, claims 15 and 20 are allowable, and dependent claims 16-19 and 21-23 are allowable as well.

### Conclusions

In view of the above remarks, Applicant respectfully submits that claims 1-30 are allowable, and requests the Examiner's allowance of those claims in addition to the already-allowed claims 31-35.

Respectfully submitted,



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